

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAY SPENCER, MATTHEW
RAY SPENCER, and KATHRYN E.
TETZ,

Plaintiffs,

vs.

NO. 3:11-cb-05424-BHS

FORMER PROSECUTING ATTORNEY
FOR CLARK COUNTY JAMES M.
PETERS, DETECTIVE SHARON
KRAUSE, SERGEANT MICHAEL
DAVIDSON, CLARK COUNTY
PROSECUTOR'S OFFICE, CLARK
COUNTY SHERIFF'S OFFICE, THE
COUNTY OF CLARK and JOHN DOES
ONE THROUGH TEN,

Defendants.

DEPOSITION UPON ORAL EXAMINATION OF JAMES MICHAEL DAVIDSON

Monday, November 5, 2012
Olympia, Washington

EXHIBIT B

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1 BE IT REMEMBERED that on Monday, November 5,
2 2012, at 9:01 a.m. at 2102 Carriage Drive SW, Building C,
3 Olympia, Washington, before DIXIE J. CATTELL, Certified
4 Court Reporter, appeared JAMES MICHAEL DAVIDSON, the
5 witness herein;

6 WHEREUPON, the following proceedings were had,
7 to wit:

8 (EXHIBIT NOS. 1-21 MARKED)

9
10 JAMES MICHAEL DAVIDSON, having been first duly sworn,
11 testified as follows:
12

13 EXAMINATION

14 BY MS. ZELLNER:

15 Q Would you state your full name for the record and spell
16 your last name.

17 A James Michael Davidson, D-A-V-I-D-S-O-N.

18 MS. ZELLNER: Let the record reflect this is the
19 deposition of James Michael Davidson taken pursuant to
20 notice and continued to today's date by agreement of the
21 parties.

22 Q Mr. Davidson, you've been deposed before in this matter,
23 correct?

24 A Yes.

25 Q And do you understand that it's very important for you to

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1 A That's correct.

2 Q What was your first employment after you left college?

3 A I was already employed.

4 Q Okay. And where were you employed?

5 A Clark County Sheriff's Department.

6 Q What was your title at that time?

7 A Deputy Sheriff.

8 Q When did you join the Department?

9 A July 3rd, 1972.

10 Q Now, at a certain point did you advance to become a
11 supervisor of -- in the Clark County Sheriff's office?

12 A To clarify, which rank are we talking about?

13 Q Well, let's just direct your attention to 1984. What was
14 your title at that time?

15 A Sergeant.

16 Q Did you have any supervisory responsibility in 1984?

17 A Yes.

18 Q Could you describe your supervisory responsibility?

19 A I was a supervisor in charge of the Criminal Investigation
20 Unit within the Clark County Sheriff's Department.

21 Q How many officers reported to you?

22 A I can only guess at this point. It's been a number of
23 years, but I believe it was somewhere around ten.

24 Q And what were your responsibilities to those officers?

25 A Assignment of cases, review of reports, review of the

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1 progress of an investigation.

2 Q Anything else?

3 A I also did some investigative -- had some investigative
4 responsibilities.

5 Q Did you also review the officers that were assigned to you?
6 Did you review their performance?

7 A I did performance and evaluations, correct.

8 Q How often were those done in 1984?

9 A I don't have a specific recall. I only can only -- my
10 conjecture would be once a year, once annually.

11 Q And did your reviews then affect their pay grade?

12 A No.

13 Q What was the purpose of your reviews?

14 A Strictly performance evaluations.

15 Q And did then you report those evaluations to someone above
16 you?

17 A Correct.

18 Q And who did you report to?

19 A Do you want a specific name or just the title?

20 Q I'd like a name and title.

21 A If my recollection is correct, I believe it would have been
22 Chief Robert Songer.

23 Q How do you spell Songer?

24 A S-O-N-G-E-R.

25 Q Okay. What was the chain of command within the Sheriff's

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1 Department in 1984? So Robert Songer was the chief, and
2 then who was under him?

3 A There would have been lieutenants, patrol lieutenants.

4 Q How many patrol lieutenants were there in 1984?

5 A I couldn't answer that question.

6 Q And you couldn't answer the question because you just don't
7 remember?

8 A I simply don't remember.

9 Q Who was under the lieutenants in the chain of command?

10 A The sergeants. I'd be at either -- Patrol.

11 Q How many sergeants were there in 1984?

12 A I don't have a record of personnel assigned to the
13 Sheriff's Department, and I don't know that -- I couldn't
14 answer that question.

15 Q Well, could you -- yeah, can you tell me, were there more
16 than five?

17 A I believe there was, yes.

18 Q More than ten?

19 A Again, you're asking me to speculate, and I can't do that.

20 Q So you're not aware of whether there were more than ten
21 sergeants?

22 A I am not, no.

23 Q Is that correct?

24 A That's correct.

25 Q And that was your position in 1984? You were a sergeant?

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1 Q Right. And I'm trying to establish exactly what your
2 duties were. So you did on occasion have to verbally
3 reprimand an officer, a detective?

4 A For a minor infraction.

5 Q Right. A more serious infraction?

6 A Those would have been referred to our Internal Affairs Unit
7 for investigation.

8 Q Before the investigation of Ray Spencer in 1984, had you
9 ever met Mr. Spencer?

10 A No, I had not.

11 Q Did you know anything about Mr. Spencer's reputation in law
12 enforcement prior to this investigation?

13 A No.

14 Q Prior to the investigation of Ray Spencer, had you met his
15 wife, Shirley Spencer?

16 A No.

17 Q What is your understanding of -- well, let me withdraw
18 that. You first met Shirley Spencer when she came to your
19 office around September 21 of 1984 with her husband to take
20 a polygraph; is that right?

21 A Somewhere in that time frame, correct.

22 Q What documents have you reviewed for today's deposition?

23 A The documents that were provided to me from my attorney.

24 Q Okay. And did your attorney provide you with a list of
25 exhibits that we were going to talk about today from my

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1 that report describes Shirley Spencer calling into your
2 office about improper touching of a minor child by Ray
3 Spencer; is that correct?

4 A That's -- yes, ma'am.

5 Q So when you received that information, do you assign a
6 detective to the case?

7 A I did, yes.

8 Q Okay. And who do you assign?

9 A Well, in this -- are we talking this particular instance or
10 any instance?

11 Q No, we're just talking about the call that came in from
12 Shirley Spencer. Did you make the assignment -- the
13 allegations against Ray Spencer, did you make an assignment
14 of that case to any detective --

15 A Yes, I did.

16 Q -- that you were supervising?

17 And was that Detective Sharon Krause?

18 A It was, yes.

19 Q Why did you assign Sharon Krause as the detective to handle
20 the claims about Ray Spencer?

21 A I can't state at that point that I had a specific reason.
22 I oftentimes reviewed caseloads, reviewed the nature of the
23 allegation, and would assign an investigator because of
24 their particular expertise.

25 Q And did Sharon Krause have -- in 1984 did she have any

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1 particular expertise?

2 A She did.

3 Q And what was her expertise?

4 A Child abuse investigations.

5 Q Had you assigned, up to that point in time, other child
6 abuse cases to her?

7 A I had, yes.

8 Q Okay. And do you know approximately how many cases you'd
9 assigned to her up, until 1984, of alleged sexual abuse of
10 a child?

11 A No, ma'am, I could not tell you.

12 Q More than 50?

13 A Again, I wouldn't even -- I'd hesitate to speculate.

14 Q Okay. Well, you might hesitate to speculate, but we have
15 no idea the number of these types of cases that your
16 department was handling in 1984, so if you could just give
17 me an approximation. I mean, did you have more than 100
18 cases a year in Clark County at that time?

19 A I'm certain that we did, yes, ma'am.

20 Q Okay. Did you have more than 200?

21 A Again, speculative only, I'm certain that we did.

22 Q So what -- do you direct Sharon Krause as to what you want
23 her to do in the initial investigation of the Ray Spencer
24 case?

25 A First of all, I'm not certain that I understand what you're

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1 exhibit that you provided me, correct.

2 Q Okay. But apparently that conflicts with your
3 recollection, right, that he initiated the report?

4 A Again, my recollection is, is that the initial report was
5 made to our office by Shirley Spencer.

6 Q Now, the first time, though, that you meet Ray Spencer is
7 on 9/21/84; is that right?

8 A I don't know that that's necessarily my first contact with
9 Mr. Spencer. I don't recall particularly whether I met him
10 at that point.

11 Q Okay. Well, on the same exhibit, Plaintiff's Exhibit 2,
12 page 6 of 12, there is a description of Mr. and
13 Mrs. Spencer coming into the office for a polygraph and you
14 and Detective Krause speaking briefly to Shirley Spencer.
15 Do you see that on page 6 of 12?

16 A I'm looking at page 12, yes, ma'am.

17 Q Okay. Do you want to take a minute and read it?

18 A (Witness complying). Where would you like me to terminate
19 my review of this?

20 Q Well, after you've reviewed it, I have some questions I
21 want to ask you.

22 After reviewing it, is it your recollection refreshed
23 that Shirley Spencer was upset when she came in to the
24 office on 9/21/84?

25 A That's indicated in the report, yes, ma'am.

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1 you consider it improper for you to form anything other
2 than a professional relationship with a witness?

3 A I would -- again, my response to that is that my code of
4 conduct would have been -- there was no personal
5 relationship with Mrs. Spencer, if that's what you're
6 asking, during the course of that investigation.

7 Q We're going -- we will go through that.

8 So when you meet with her on 9/21, do you recall when
9 your next contact with her is?

10 A I do not.

11 Q At some point you must indicate to her that you have some
12 interest in her other than as a witness in the case, right?

13 A No, ma'am.

14 Q So, explain to us, if you would, what are the circumstances
15 of your first encounter with Shirley Spencer? I'm not
16 talking about sexual encounter. When did that occur when
17 she went from being a witness in the case to having a
18 personal relationship with you?

19 A My best recollection is, is that it occurred sometime June
20 or July of 1985 after Mr. Spencer --

21 Q What -- go ahead.

22 A -- after Mr. Spencer had been sentenced and had -- I
23 believe had been sentenced to the penitentiary.

24 Q Is that around the time that you moved into her house?

25 A I did not move into her house at that point, no, ma'am.

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1 Q What was the date of when you moved into her house?

2 A I can't be specific with that, but it would have been
3 probably fall of 1985.

4 Q I'm assuming when you move into her house, that's not when
5 the relationship transforms from Mrs. Spencer as a
6 professional -- or as a witness into a personal
7 relationship, right? You've already got the relationship
8 by the time you move into the house in the fall of 1985?

9 A We're talking personal relationship now; is that correct?

10 Q Correct.

11 A My first recollection is, is that we had a social encounter
12 sometime the end of June, the first part of July, which
13 involved having a drink at a restaurant called Waddles in
14 Portland.

15 Q And that was you say, in June or July of 1985?

16 A Correct.

17 Q Okay. And how did that social encounter get set up? Who
18 contacted who?

19 A My recollection is that she came into the office and
20 specifically to see Detective Krause to thank her for all
21 of her efforts and hard work. If memory serves me correct,
22 Detective Krause was not in the office at that time so she
23 stopped by my office. I was in the office.

24 Q What did she say?

25 A I can't recall the specific conversation, but during the

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1 course of that conversation, whether I said it or she said
2 it, we made an arrangement at some point in time in the
3 future to have a drink.

4 Q Was that the first time that you went out in public with
5 Mrs. Spencer?

6 A That is the first time that I ever saw Mrs. Spencer on a
7 social basis.

8 Q Now, when that conversation occurred in your office, did
9 you think about the fact that if Mr. Spencer withdrew his
10 guilty plea, that Mrs. Spencer could end up as a witness at
11 his trial?

12 A I'm not certain that I can even answer that question. I
13 don't believe I had any conscious thought of that. At the
14 point that we made that contact, I assumed that the case
15 was in its final disposition.

16 Q You didn't expect to be sitting here today, right, 25, 28
17 years later?

18 A No, ma'am.

19 Q So what made you think that Mrs. Spencer would be willing
20 to go out in public with you and have a drink? Her husband
21 had just been sent to prison, correct?

22 A Within a month, month and a half, correct.

23 Q What made you think that Mrs. Spencer would find that
24 request appropriate or that she would be willing to do
25 that?